

EXHIBIT B

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UNITED STATES BANKRUPTCY COURT

3

SOUTHERN DISTRICT OF NEW YORK

4

Case No. 09-50026 (REG)

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In the Matter of:

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MOTORS LIQUIDATION COMPANY, et al.

9

f/k/a General Motors Corporation, et al.,

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Debtors.

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United States Bankruptcy Court

16

One Bowling Green

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New York, New York

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December 2, 2010

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9:52 AM

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B E F O R E:

24

HON. ROBERT E. GERBER

25

U.S. BANKRUPTCY JUDGE

1 HEARING re Status Conference re: Disclosure
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3 HEARING re Debtors' Ninety-Seventh Omnibus Objection to Claims
4 (No Liability GMAC Debt Claims)
5
6 HEARING re Debtors' Ninety-eighth Omnibus Objection to Claims
7 (Incorrectly Classified Claims)
8
9 HEARING re Debtors' 10erd Omnibus Objection to Claims (Welfare
10 Benefits Claims of Retired and Former Salaried and Executive
11 Employees)
12
13 HEARING re Motion for Relief from Stay filed by John F.
14 Townsend III on behalf of Timothy Bynum
15
16 HEARING re Motion for Relief from Stay on behalf of Samuel
17 Barrow
18
19  HEARING re Motion for Relief from Stay, Tracy Woody
20
21 HEARING re Motion of Debtors Authorizing Estimation of Debtors'
22 Aggregate Liability for Asbestos Personal Injury Claims and
23 Establishing Schedule for Estimation Proceeding
24
25 Transcribed by: Lisa Bar-Leib

1 and the rest of the objection could be marked off calendar as
2 resolved.

3 THE COURT: Of course, sure.

4 MR. SMOLINSKY: And that, I believe, leaves with us
5 Ms. Woody's motion.

6 THE COURT: All right. Ms. Woody, I'll hear your
7 oral argument. It's your motion. I do have a few questions of
8 both sides. First, I saw an indication in the debtor's
9 response that there were settlement negotiations that were
10 being considered or ongoing, and I'd like to know what happened
11 to them, since I would've thought that the cost of litigating
12 this motion could exceed the amount of the cost of repairs or
13 damage to the vehicle.

14 I also did not see in this thick package, but I may
15 have missed it, the actual ruling by the North Carolina state
16 court, but Ms. Woody, I didn't see any reply by you that would
17 cause me to quarrel with what the debtors said about the claim
18 being found to be untimely, although the words that the debtor
19 used struck me as odd. Certainly, I don't rule that way. Time
20 barred and/or failed as a matter of law, I would've thought
21 that most judges would be more specific in saying what they're
22 ruling on and why.

23 Ms. Woody, you didn't deal with the Sonnax factors,
24 which are the factors that a judge in my circuit, the 2nd
25 Circuit, must take into account in deciding whether or not to

1 grant relief from the stay. And, of course, there are many,
2 many precedents where I have ruled, principally by dictated
3 decisions on others' requests for relief from the stay, which
4 so far as I recall, I have denied in every instance, and I
5 guess the question I have is why this case should be regarded
6 as different than the others, and why the precedents of the
7 others don't equally apply here.

8 So with that said, I'll hear first from you, Ms.
9 Woody.

10 MS. WOODY: First of all, Your Honor, I would like to
11 apologize. My daughter is actually sick and she was coughing.
12 I was just trying to let her know I was on the phone with the
13 Court.

14 But in any event, I believe that there are certain
15 bankruptcy procedures that has to be followed regarding General
16 Motors. I believe I was supposed to be sent a proof of claim
17 and possibly a notice of creditor's meetings, because -- a
18 meeting, because I know that they, General Motors, was aware of
19 the lawsuit that I filed against them as the manufacturer.

20 I purchased a vehicle that was part of a lawsuit
21 against General Motors, regarding some manufacturing defects in
22 the vehicle, and I filed my case regarding this within the
23 three-year period. And I did not receive a proof of claim from
24 the attorney for General Motors. I didn't receive any notice
25 of creditor's meetings.

1 The only thing I received was this Chapter 11
2 confirmation and a letter previously telling me that GM was in
3 bankruptcy, and that I should dismiss my case, or sanctions may
4 be imposed upon me. That's the letter I received from the
5 attorney's office for GM.

6 So I wasn't aware of the deadline, of any deadline
7 for a claim, but at this point, I'm still an interested party.
8 I still have a Wayne County court -- district court case
9 against which General Motors is one of the parties, that I'm
10 going to get in against because of manufacturing defects to the
11 vehicle and the damages and so forth that pursued (sic).

12 And as far as the bankruptcy, it is not set up to
13 protect any misrepresentation of a product or any type of -- I
14 mean, I was sold the product saying that the vehicle was in
15 good shape, that it had been tested, there was no problem with
16 it.

17 When I took the vehicle to a car mechanic, as a
18 matter of fact, General Motors is the one that sent this
19 litigation or lawsuit information a year after the warranty was
20 over, and it mentioned as long as -- well, the mechanic
21 mentioned that was working on my car, mentioned that the
22 speedometer defect had to be repaired by the manufacturer, and
23 the vehicle I had was down for several months.

24 And he mentioned -- we had a long conversation, the
25 mechanic and I, and there were some issues with the

1 manufacturer, it was some manufacturer defects. And what
2 concerned me is that the vehicle stopped while I was driving,
3 and I had my children in the car, and my elderly mother. And
4 we stopped, actually it stopped while we were driving, and we
5 were right there in a dead curve where somebody could've really
6 hit us, and we could've had a horrible accident.

7 But in any event, the ruling for the Wayne County
8 District Court was -- the attorneys had mentioned that I had
9 not filed the claim or the cases -- I should say the case, I
10 didn't file to serve it or serve it with the proper subpoenas
11 and so forth, which I'm not sure what happened to those
12 subpoenas, but I -- as far as everything was filed and even
13 served a second time around to the attorneys that these
14 defendants, including General Motors. And I don't know how
15 that paperwork got missing. I guess it was just a clerical
16 error. But I had sent copies of all of the subpoenas. I
17 reissued those subpoenas from the courthouse, from the clerk,
18 who signed off on them, and they received those as well.

19 So actually the order, as far as the Court, and I
20 have a jurisdiction was not appropriately -- filed. So I filed
21 the motion to set that order aside, and that's where we're at
22 at this point.

23 And I listed the specific information about General
24 Motors and why the liability is still an issue, and it really
25 stems from a letter that -- also it kind of came from them,

1 which says that -- and I filed this with my proof of claim as
2 an interested party, which states that General Motors -- the
3 description of the lawsuit was it was a class action lawsuit,
4 and my vehicle is one of the vehicles that's listed in here, a
5 2003 Chevrolet Suburban, and it mentions --

6 THE COURT: Pause, please, Ms. Woody. Your lawsuit
7 was not a class action lawsuit, right?

8 MS. WOODY: No, it wasn't. It wasn't part of the
9 class action lawsuit, no, sir, it wasn't.

10 THE COURT: No, I don't understand. You're saying
11 you were a member of a class, of somebody else's class action
12 lawsuit?

13 MS. WOODY: Oh, no, sir. I'm saying that I'm
14 referencing that there was other plaintiffs that have filed a
15 lawsuit against General Motors regarding the same issues that I
16 had filed a lawsuit against.

17 THE COURT: What does that have to do with you?

18 MS. WOODY: Well, it's just that there are other
19 cases out there with the same type of problem, or there were
20 other cases out there with the same type of problems that I had
21 with my vehicle, with the manufactured defects.

22 THE COURT: Okay. Do you want to talk about the
23 Sonnax factors?

24 MS. WOODY: I'm sorry?

25 THE COURT: Do you want to be heard on what GM said

1 about the Sonnax factors?

2 MS. WOODY: Sonnax factors?

3 THE COURT: Yes. If you don't know what they are --

4 MS. WOODY: No.

5 THE COURT: -- then I'll rule on them based --

6 because I know what they are. But you don't want to speak to
7 that; am I correct?

8 MS. WOODY: I'm not aware of what the Sonnax factors
9 are at this point.

10 THE COURT: Okay. Fair enough.

11 MS. WOODY: Uh-huh.

12 THE COURT: Do you have a copy -- well, I'll ask
13 Mr. Smolinsky. Did the North Carolina court issue its ruling
14 in writing? Hello? Are you still with me, Ms. Woody?

15 MS. WOODY: Oh, yes, I'm sorry. I didn't know if you
16 were talking to an attorney. There was a ruling about the
17 court not having subject matter. It was an issue with the
18 subpoenas, but as I mentioned, I have asked that that motion be
19 set aside, so that's going to be scheduled for court, but
20 before I can schedule that, I needed to have a motion for
21 relief so I can continue showing the judge that in the file,
22 all the subpoenas, and they were all issued. I've sent
23 certified copies and so forth of all the information. So that
24 order, you know, is not correct.

25 THE COURT: Okay. Thank you. All right. I'll hear

1 from Mr. Smolinsky now. Mr. Smolinsky, start with, did the
2 North Carolina court issue its ruling in writing?

3 MR. SMOLINSKY: It did, Your Honor, and I'm just --
4 through my investigation from my office. The reason why it
5 wasn't -- we didn't attach it to the papers, was that it didn't
6 say anything substantive. It merely stated that GM's motion
7 for summary judgment is granted in its entirety, and
8 plaintiff's complaint is dismissed.

9 THE COURT: When it said GM, did it make a
10 distinction between Old GM and New GM?

11 MR. SMOLINSKY: I would have to say they were talking
12 about New GM, because that's the one who filed the motion for
13 summary judgment, and we had already worked out with Ms. Woody
14 that we were severed from that case. So I wouldn't --
15 certainly wouldn't assume that the judge was dismissing the
16 case as to us.

17 THE COURT: All right. Continue.

18 MR. SMOLINSKY: And plaintiff's complaint is
19 dismissed in its entirety, as asserted against General Motors
20 LLC f/k/a General Motors Company, s/h/a General Motors
21 Company/severally a division of GM/General Motors Corp., and
22 that's all it said.

23 So we paraphrased, based on what the motion for
24 summary judgment was, which was based on a timeliness --

25 THE COURT: I don't quarrel with your paraphrase, Mr.

1 Smolinsky, but without being critical of another judge, without
2 understanding the basis upon which the other judge ruled, I
3 have some difficulty applying res judicata or collateral
4 estoppel.

5 MR. SMOLINSKY: I don't dispute that, Your Honor, and
6 I don't think that we're arguing that the judge has already
7 dismissed the case as to us.

8 THE COURT: Okay. You don't need to repeat yourself
9 on the Sonnax factors. Ms. Woody says she never got a proof of
10 claim form or got timely notice of the need to file a claim,
11 even though there was apparently ongoing communications between
12 her and GM's counsel down in North Carolina. Do you have any
13 facts relevant to that?

14 MR. SMOLINSKY: I don't, Your Honor, other than the
15 fact that we did our best to notify parties to actions and
16 threatened actions, using information that was provided by, at
17 that time, New GM. I can't confirm or deny today whether Ms.
18 Woody was on that list.

19 I did hear her say that she knew that the bankruptcy
20 was filed at the time, but other than that, I would have to do
21 some further investigation.

22 THE COURT: Okay. Well, again, I don't have a
23 problem with you or your firm, Mr. Smolinsky, but other people
24 who have gotten involved in one way or another in this
25 controversy may not have done all the things that -- let's just

1 say that best practices would've suggested that they could've
2 or should've done.

3 You don't need to repeat yourself on Sonnax factors.
4 Is there anything else you want to talk about, Mr. Smolinsky?

5 MR. SMOLINSKY: Other than to just, you know, confirm
6 for the record that this action was filed after our bankruptcy
7 was filed, and so when you look at the first Sonnax factor,
8 there are several matters that are not North Carolina state
9 court issues, but would have to come back to the bankruptcy
10 court for, such as whether the North Carolina action is voided
11 as a matter of law for violating the stay, whether any judgment
12 is unenforceable for the failure to file a proof of claim, or
13 whether any claims, an expressed warranty claim that would be
14 assumed by New GM, or a retained liability under the master
15 sale and purchase agreement.

16 With respect to the settlement, you know, we have
17 tried to take a very practical approach in this case. We have
18 resolved a number of cases in similar situations where there
19 hasn't been proofs of claim. We think that the bankruptcy
20 environment is the best way to do that in. I think we made --
21 we spoke to Ms. Woody twice, and offered at each time a
22 settlement offer, which I think was very generous, relative to
23 I think the amount of her repairs, and those offers were
24 rejected.

25 I don't want to violate Rule 408, I'm happy to

1 disclose what the offer was, if Your Honor is interested, but
2 so far we have not been able to resolve it. I think the
3 practicality and the efficiency of this case is the important
4 issue here. I think that we can deal with this claim here in
5 the bankruptcy court. I fear very much that to the extent that
6 this moves back to North Carolina, that we're going to be mired
7 in litigation for a long time over a claim of a very small
8 amount.

9 THE COURT: All right. Everybody, have a seat,
10 please. Mr. Smolinsky and Ms. Woody, I'm now going to rule.

11 Ladies and gentlemen, I am denying relief from the
12 stay. Which means, Ms. Woody, that I am denying permission for
13 you to proceed in North Carolina, but will also be issuing a
14 supplemental order in the interest of justice, which I will
15 describe in a moment.

16 The narrowest issue before me is whether you, Ms.
17 Woody, should be allowed to proceed with further litigation in
18 North Carolina; and a motion of that character is governed by
19 twelve factors that I am directed by the 2nd Circuit Court of
20 Appeals to consider, which are known as the Sonnax factors,
21 S-o-n-n-a-x, as described in a case reported at 907 F2d 1280.

22 Those factors overwhelmingly weigh in favor of me
23 exercising my discretion, which the case law permits me to do,
24 to deny relief from the stay.

25 The first Sonnax factor is whether relief would

1 result in a partial or complete resolution of the issues. Here
2 that depends on how you would define it. It appears that the
3 -- a decision was issued insofar as General Motors LLC, what I
4 call New GM, would be concerned. Here the litigation would
5 proceed, presumably it could result in a resolution of the
6 issues with respect to Old GM, but at the same time, the North
7 Carolina state court judge might rule that the same reasons
8 that he gave for ruling in favor of New GM would also apply to
9 Old GM, if in fact, he didn't have that in mind already. I
10 can't be sure.

11 So this factor, when it's present in a clear way,
12 normally weighs in favor of granting relief from the stay, but
13 here it either is a wash or tilts against it. Lack of any
14 connection with or interference with the bankruptcy case is the
15 second factor, and that weighs materially in favor of Old GM
16 here.

17 There have been many, I don't remember how many
18 similar motions that we've dealt with before where people want
19 to proceed with litigation against Old GM all around the
20 country, and the cost of defending these is a burden upon all
21 of GM's creditors, and creates both interference and burden on
22 that.

23 We do have a claims process for dealing with this
24 type of stuff. I'm going to come back to the claims process
25 later. But that's the way that a claim of this character

1 should be dealt with, not by litigating in North Carolina.

2 Whether the other proceeding involves the debtor as a
3 fiduciary weighs in favor of relief from the stay when it's
4 applicable, but here it's not applicable.

5 Factor number four is whether a specialized tribunal
6 with the necessary expertise has been established to hear the
7 cause of action, and that factor weighs in favor of granting
8 relief from the stay when it applies. But when it doesn't
9 apply, it's either a wash or tilts against it.

10 The fifth factor is whether the debtor's insurer has
11 assumed full responsibility for defending it, and like some of
12 the predecessors, it weighs in favor of granting relief from
13 the stay when it's applicable, but here it does not apply. So
14 it is either a wash or tends to weigh against relief from the
15 stay.

16 Whether the action primarily involves third parties;
17 well, again when this factor is present, it tends to weigh in
18 favor of granting relief from the stay. There obviously here
19 is one third party, which is New GM, but which is no longer in
20 the case, and now as a practical matter, all we're talking
21 about is whether these claims should be heard in the claims
22 process or down in North Carolina. So this factor is at most a
23 wash or alternatively, weighs against relief from the stay.

24 Factor number seven is whether litigation in another
25 forum would prejudice the interests of other creditors, and in

1 a different context I talked about this. This is indeed
2 prejudicial to the other creditors because they would have to
3 bear the cost of litigation by Old GM in North Carolina, which
4 is unfair to them. Those factors weighs materially in favor of
5 denying relief from the stay.

6 Whether the judgment claim arising from the other
7 action is subject to equitable subordination is factor number
8 eight. And here, under the facts, this factor doesn't apply at
9 all or alternatively is regarded as a wash. It just doesn't
10 apply.

11 Factor number nine is whether movant's success in the
12 other proceeding would result in a judicial lien avoidable by
13 the debtor. This too doesn't apply.

14 Factor number ten, which is one of the most
15 important, is the interests of judicial economy and the
16 expeditious and economical resolution of litigation. This
17 relates to a couple of the others and this weighs heavily
18 against granting relief from the stay.

19 I can deal with the matters of judicial economy much
20 more quickly and easily in the claims process, and going back
21 to start up a whole new litigation in North Carolina is going
22 to be exactly the opposite of being expeditious or economical,
23 and is exactly the kind of thing that the interests of judicial
24 economy say that I would be nuts to do.

25 Factor number eleven, whether the parties are ready

1 for trial in the other proceeding is a factor that when it
2 applies weighs in favor of granting relief from the stay, but
3 here it doesn't apply. So once more, it's either a wash or
4 tends to vote or weigh against granting relief from the stay.

5 Impact of the stay on the parties and the balance of
6 harms, is here essentially a wash. I can grant whatever relief
7 is in the interest of justice as well, and most likely quicker
8 than the North Carolina court could.

9 So for the foregoing reasons, I'm exercising my
10 discretion to deny relief from the stay. With that said, I
11 take Ms. Woody at her word when she said she didn't get notice
12 of a deadline for filing claims. And I wasn't a fly on the
13 wall, so I don't know what Ms. Woody was told by the lawyers
14 for New GM, who were defending that lawsuit down in North
15 Carolina, but if it is true, as Ms. Woody alleges, that she had
16 all these conversations with these guys and they never told her
17 about the fact that she'd need to file a claim and the deadline
18 for doing that, that's a matter of concern to me.

19 So what I'm going to do is, Ms. Woody, I'm going to
20 give you thirty days from the date that GM gives you service of
21 the order denying your motion for relief from the stay, to file
22 a proof of claim for the costs that you claim that you were
23 suffered. And if you file a proof of claim, then you will get
24 the same distributions as other creditors of GM with
25 prepetition claims get, to the extent that there is either

1 agreement on what your damages should be or I, as a judge,
2 resolve it.

3 That does not mean that if by way of example, you
4 file a proof of claim for nine thousand dollars, you're going
5 to get a check for nine thousand dollars. First of all, it's
6 only what your damages actually are, and second, you're going
7 to get the same amount on a claim that other creditors get.
8 And I don't know exactly what a claim is worth in this case,
9 but let's say it's fifteen or twenty cents on the dollar,
10 that's what we're talking about, and it might be less for that
11 matter. I just don't know, I don't know what the value of the
12 stock that is going to ultimately go to creditors is, but
13 that's the way it's going to be.

14 This ruling is, of course, without prejudice to the
15 rights of Old GM or its creditor's committee to object to the
16 proof of claim if one is filed, and I would encourage you,
17 Ms. Woody, considering how little a claim may be worth, to
18 seriously consider any settlement that GM might offer you, but
19 ultimately that's your decision, not mine.

20 Mr. Smolinsky, you're to settle an order in
21 accordance with this dictated ruling, saying in substance that
22 for the reasons set forth on the record, the motion for relief
23 from the stay is denied, but also providing that Ms. Woody will
24 have thirty days to file a proof of claim, and if she does file
25 a proof of claim that this ruling is without prejudice to

1 everybody's rights on whether or not that proof of claim should
2 be allowed.

3 The time to appeal from this determination will run
4 from the date of entry of the order, and not from today, and
5 the usual fourteen-day stay of effectiveness of the order under
6 Bankruptcy Rule 4001 will remain in effect.

7 All right. I believe we're done, folks.
8 Mr. Smolinsky?

9 MR. SMOLINSKY: Your Honor, I would just note that
10 Ms. Woody is free to contact me at the number on the papers or
11 Breanna Benefield (ph) who she spoke to several times, if she
12 wants to bypass the proof of claim process and see if we can
13 just reach agreement.

14 MS. WOODY: I can barely hear, I'm sorry.

15 THE COURT: All right. Mr. Smolinsky, pull the
16 microphone real close to you and just repeat to her so she can
17 hear what you just told me.

18 MR. SMOLINSKY: Your Honor, I was just making the
19 offer that if Ms. Woody wanted to try to bypass the proof of
20 claim process, that she's free to call me at the number on our
21 papers or Breanna Benefield who she has spoken to on several
22 occasions.

23 THE COURT: Okay. Did you follow that, Ms. Woody?

24 MS. WOODY: I did, and thank you very much.

25 THE COURT: Okay. Have a nice day. We're adjourned.

1 (Whereupon these proceedings were concluded at 11:06 a.m.)

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I N D E X

RULINGS

Page Line

Motion for Relief From Stay

Tracy Woody

Denied

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C E R T I F I C A T I O N

I, Lisa Bar-Leib, certify that the foregoing transcript is a
true and accurate record of the proceedings.

Lisa Bar-Leib

Digitally signed by Lisa Bar-Leib
DN: cn=Lisa Bar-Leib, c=US
Reason: I am the author of this document
Date: 2010.12.03 14:29:49 -05'00'

LISA BAR-LEIB

AAERT Certified Electronic Transcriber (CET**D-486)

Veritext

200 Old Country Road

Suite 580

Mineola, NY 11501

Date: December 3, 2010